

00684.003290



PATENT APPLICATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
	:	Examiner: Camie S. Thompson
TAKASHI MORIYAMA ET AL.)	
	:	Group Art Unit: 1774
Application No.: 09/996,883)	
	:	
Filed: November 30, 2001)	
	:	
For: ORGANIC ELECTRO-)	
LUMINESCENCE DEVICE	:	
)	
U.S. Patent No. 6,908,694 B2	:	
)	
Issued: June 21, 2005	:	August 19, 2005

Mail Stop PTA
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT
TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)

Sir:

Patentees hereby request under 37 C.F.R. § 1.705(d) reconsideration and recalculation of the Patent Term Adjustment for the above-identified patent. Submitted herewith
08/22/2005 SDENB082 00000073 09996883
is a check for \$200.00 for the fee set forth in 37 C.F.R. § 1.18(e). Any deficiency in this fee may
be charged, or any overpayment credited, to Deposit Account No. 06-1205.

For the following reasons, this patent is believed to be entitled to a PTA of 118 days.

1. The present patent issued from Application No. 09/996,883 (the '883 application) filed on November 30, 2001.
2. The present patent is not subject to any terminal disclaimers.
3. Pursuant to 37 C.F.R. § 1.705(b) and (d), reconsideration of the determinations regarding the patent term adjustment (PTA) made for the period prior to the January 5, 2005 mailing date of the Notice of Allowance is not requested.
4. The Patent Application Information Retrieval (PAIR) system indicates a U.S. Patent and Trademark Office (PTO) delay period of 78 days for failure to issue a patent within three years of the actual filing date of the '883 application (See attached printout of PAIR page). Patentees do not dispute this determination.
5. The PAIR system further indicates Patentees' delay period of six (6) days for a period beginning April 11, 2005 in connection with the Issue Fee payment. Patentees do not dispute this determination.
6. Additionally, the PAIR system indicates Patentees' delay period of 117 days for a period beginning February 25, 2005 and ending on June 21, 2005, in connection with the filing of a "Miscellaneous Incoming Letter". Patentees dispute this determination.

ARGUMENTS

1. It is respectfully submitted that the PTO incorrectly treated the paper entitled "STATEMENT OF THE SUBSTANCE OF INTERVIEW" (Statement) filed by Patentees on February 25, 2005 as a "Miscellaneous Incoming Letter", and wrongly deducted 117 days from the PTA.

2. The PTO can reduce the amount of the PTA due to a “failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application” under 37 C.F.R. § 1.704(c). Under 37 C.F.R. § 1.704(c)(10), one such circumstance is the “[s]ubmission of an amendment under § 1.312 or other paper after a Notice of Allowance”. However, Patentees’ February 25, 2005 Statement should not be considered a “failure to engage” within the meaning of 37 C.F.R. § 1.704(c)(10) for the following reasons.

3. The February 25, 2005 Statement was filed in response to the Interview Summary dated February 11, 2005, which Patentees had received from the Patent Office in response to the telephone Interview conducted on February 2, 2005.

4. The Examiner’s Interview Summary specifically required Patentees to submit the Statement of the Substance of the Interview.

5. Since Patentees were required by the Examiner’s Interview Summary to file the Statement, the Statement cannot be considered a “failure . . . to engage in reasonable efforts to conclude processing or examination of an application” within the meaning of 37 C.F.R. § 1.704(c)(10).

6. In view of the above, it is clear that the February 25, 2005 filing of the Statement should not result in any reduction of the PTA.

7. Furthermore, even if assuming, *arguendo*, that the February 25, 2005 Statement constitutes a “failure . . . to engage in reasonable efforts to conclude processing or examination of an application” under 37 C.F.R. § 1.704(c)(10), the PTA should have only been reduced by 111 days; not by 117 days as was done by the PTO.

8. Specifically, the PTO erroneously “double-counted” the six day period from April 5, 2005 to April 11, 2005 by including this period in the (erroneous) 117 day

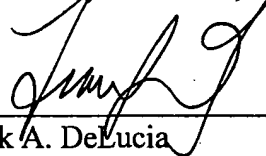
reduction associated with the payment of the Issue Fee and the filing of the "Miscellaneous Incoming Letter" (See attached printout of PAIR page).

RELIEF REQUESTED

Reconsideration of the Patent Term Adjustment is respectfully requested. In particular, it is requested that the 117 day reduction associated with the "STATEMENT OF THE SUBSTANCE OF INTERVIEW" filed on February 25, 2005, be changed to 0 days, and the Patent Term Adjustment be recalculated and adjusted to 118 days. In the event this request is denied, the Patent Term Adjustment is requested to be increased at least by six days due to a clearly erroneous "double counting" of a time period from April 5, 2005 to April 11, 2005, as described above.

Patentees' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



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Printer Friendly

09/996,883 ORGANIC ELECTROLUMINESCENCE DEVICE

Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 09/996,883			
			Days
Filing or 371(c) Date:	11-30-2001	USPTO Delay (PTO):	203
Issue Date of Patent:	06-21-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	202
Post-Issue Petitions (days):	+0	Total PTA:	1
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
06-21-2005	Patent Issue Date Used in PTA Calculation		
06-01-2005	PTA 36 Months	78	
04-18-2005	Receipt into Pubs	↑	
04-18-2005	Dispatch to FDC	↑	
04-18-2005	Application Is Considered Ready for Issue	↑	
04-11-2005	Issue Fee Payment Verified	↑	6
04-11-2005	Issue Fee Payment Received	↑	↑
04-04-2005	Receipt into Pubs	↑	↑
02-25-2005	Miscellaneous Incoming Letter	↑	117
02-11-2005	Mail Miscellaneous Communication to Applicant	↑	↑
02-10-2005	Miscellaneous Communication to Applicant - No Action Count	↑	↑
01-19-2005	Workflow - File Sent to Contractor	↑	↑
01-05-2005	Mail Notice of Allowance	↑	↑
01-04-2005	Issue Revision Completed	↑	↑
01-03-2005	Notice of Allowance Data Verification Completed	↑	↑
12-27-2004	Notice of Allowability	↑	↑
11-04-2004	Date Forwarded to Examiner	↑	↑
10-18-2004	Response after Non-Final Action	↑	9
10-18-2004	Workflow incoming amendment IFW	↑	↑
07-09-2004	Mail Non-Final Rejection	↑	↑
07-07-2004	Non-Final Rejection	↑	
05-10-2004	IFW TSS Processing by Tech Center Complete	↑	
05-10-2004	Date Forwarded to Examiner	↑	
04-26-2004	Information Disclosure Statement (IDS) Filed	↑	
04-26-2004	Response after Non-Final Action	↑	35
04-26-2004	Request for Extension of Time - Granted	↑	↑
04-26-2004	Workflow incoming amendment IFW	↑	↑
12-22-2003	Mail Non-Final Rejection	↑	↑

12-19-2003	Non-Final Rejection	↑	
10-23-2003	Date Forwarded to Examiner	↑	
10-09-2003	Response after Non-Final Action	↑	35
10-09-2003	Request for Extension of Time - Granted	↑	↑
10-09-2003	Information Disclosure Statement (IDS) Filed	↑	↑
06-04-2003	Mail Non-Final Rejection	125	
05-30-2003	Non-Final Rejection	↑	
04-05-2003	Case Docketed to Examiner in GAU	↑	
08-25-2002	Receipt of all Acknowledgement Letters	↑	
07-31-2002	Case Docketed to Examiner in GAU	↑	
07-12-2002	Request for Foreign Priority (Priority Papers May Be Included)	↑	
05-13-2002	Information Disclosure Statement (IDS) Filed	↑	
03-11-2002	Information Disclosure Statement (IDS) Filed	↑	
02-22-2002	Application Dispatched from OIPE	↑	
02-21-2002	Application Is Now Complete	↑	
02-12-2002	Additional Application Filing Fees	↑	
02-12-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑	
02-05-2002	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	↑	
02-01-2002	IFW Scan & PACR Auto Security Review	↑	
12-12-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
12-12-2001	Correspondence Address Change	↑	
12-05-2001	IFW Scan & PACR Auto Security Review	↑	
11-30-2001	Initial Exam Team nn	↑	

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